Single Bench S

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IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) No. 5076 /2006

PETITIONER : R.K.Patel, Son of Shri S.P.Patel aged about 43 years, resident of Village Basna, Tehsil-Basna, District-Mahasamund (C.G.).

VERSUS

RESPONDENTS

1. State of Chhattisgarh, Through –Secretary, School Education Department, Government of Chhattisgarh, D.K.S. Bhawan, Raipur (C.G.).
2. Collector, Mahasamund, District-Mahasamund.
3. District Education Officer, Mahasamund, District-Mahasamund (C.G.).
4. Block Education Office, Basna, District Mahasamund (C.G.).
5. Accountant, Block Education Office, Basna, District-Mahasamund (C.G.).

P.R. No. 5076/06
Presented by Shri Mrs Sinha
dated 12/12/06

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WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT/WRITS, DIRECTION/DIRECTIONS ETC.

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

W. P. (S) No. 5076 of 2006

Petitioner : R.K. Patel

Versus

Respondents : State of Chhattisgarh & others

Shri Manoj Kumar Sinha, Advocate for the petitioner.

Shri Arvind Dubey, Panel Lawyer for the State/respondents.

ORDER

(18th September, 2006)

1. The petitioner, in this petition has impugned the transfer order dated 7.7.2006 (Annexure P/2) and relieving order dated 26.8.2006 (Annexure P/5).

2. The facts in nutshell are that the petitioner was appointed as Upper Division Teacher and was working as Assistant Block Education Officer in Block Education Office, Basna, District Mahasamund.

3. By impugned order dated 7.7.2006, the petitioner was transferred from Block Education Office, Basna to Government Middle School, Sarkanda, Basna. Thereafter, by order dated 26.8.2006 (Annexure P/5), the petitioner was relieved from his place of posting to join new place of transfer.

4. The petitioner is challenging the impugned orders on the grounds that (i) the petitioner was transferred during the ban period, (ii) there was no administrative exigency, (iii) there was no complaint against him, (iv) he would be surplus on the new place of posting, and (v) the children of the petitioner are studying in school at Basna.

5. Learned counsel appearing for the petitioner submits as above. He further submits that the impugned transfer order as well as relieving order be quashed, accordingly.

6. Having heard learned counsel for the petitioner and having perused the record, the grounds above mentioned are not tenable in law. Even during the ban period, which is in the nature of guidelines, in case of administrative exigency a transfer can be made. There is no grievance of the petitioner that there was any mala fide exercise of power or the authority passing the transfer order was not competent or provisions of any statuary rules or circular have been violated. Learned counsel has not produced any documents or any evidence to support his contention as stated above except self servicing statements.

7. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee is to be posted in the interest of

administration and public. This Court has limited jurisdiction to interfere in transfer matters and this Court can interfere only in the case of proved malafide, non-competence of the authority is passing the transfer order, and order not being in conformity with the rules and regulations. None of the above grounds are available to the petitioner.

8. Thus, the writ petition is dismissed at admission stage.

Sd/-
Satish K. Agnihotri
Judge

Subhash